APPELLEES' APPENDIX

EXCERPTS FROM TESTIMONY OF R. R. RANDALL.

(762) ROLAND RODROCK RANDALL, sworn.

DIRECT EXAMINATION.

BY MR. COLEMAN:

* * * * * * * * *

(767) Q. Subject to checking, Mr. Gaffney when he was representing the defendants before Judge Klein on May 11, 1966, said: "Since 1963 the Trustees have collected no income whatever from the building on Market Street and exactly $100 from the building on 11th Street, and their expenses have been over $600,000 over that period"; is that correct?

A. I would subscribe to that.

* * * * * * * * *

(770) Q. When Snellenburg moved out, I take it the defendants were then faced with the problem of trying to lease the space to someone else.

A. We certainly were.

Q. Did this come under your committee?

A. Yes, sir.

Q. And did you go out and attempt to induce another store to come in and take over the premises?

A. We went every place we could.

Q. You were unsuccessful.

A. That is right.

Q. You couldn't find anyone who would be able to take over the whole store.

A. We couldn't find any department store willing to take it over entirely, and we covered practically everybody in the country and a couple of prospects outside of the country and one Japan firm.

(771) Q. In other words, it was impossible for you to rent this premises to a store.

A. Finally we thought that was the case, possibly the size of the store was uneconomic for that location and that type building.

Q. During this time, save what you were getting from Sley and from Sam Goody, you were getting no other income; is that right?

A. That is right.

Q. But, on the other hand, there were expenses which were continuing?

A. Oh, yes.

* * * * * * * * *

EXCERPT FROM MINUTES OF BOARD OF TRUSTEES (P-7).

INSPECTION TOUR OF GIRARD COLLEGE

The Judges of the Orphans' Court of Philadelphia County and the Trustees of the Estate of Stephen Girard, Deceased, inspected Girard College on Friday, April 21, 1961, at 12:00 Noon.

Present were the following:

Judges of the Orphans' Court
Hon. Charles Klein, President Judge
Hon. Robert V. Bolger
Hon. Mark E. Lefever
Hon. Kendell H. Shoyer

Excerpt from Minutes of Board of Trustees (P-7)

Hon. Joseph D. Burke
Hon. Harold D. Saylor was absent.

Trustees of the Estate of Stephen Girard, Deceased
Mr. Revelle W. Brown
Mr. John A. Diemand
Dr. Gilson Colby Engel
Mr. Walter S. Franklin
Walter B. Gibbons, Esq.
Hubert J. Horan, Jr., Esq.
Dr. Louis P. Hoyer
Mr. Frederick H. Levis
David H. Maxwell, Esq.
Mr. Roland Rodrock Randall
Mr. Harry G. Schad
Morris Wolf, Esq.
Mrs. Mina F. Oliver

Also present were:
Dr. Karl R. Friedmann
Mr. William Jamison
Mr. W. H. Gillam, Jr.
Mr. Blackwell Newhall
Mr. Kent L. Roberts
Mr. James J. Hagan
Mr. George S. Hoffman
Mr. W. Parkes Millington
Thomas J. Gaffney, Esq.

During luncheon Certificates of Appointment, signed by all six of the present Judges, were presented to each of the Trustees by President Judge Klein.

EXCERPT FROM MINUTES OF BOARD OF TRUSTEES (P-8).

INSPECTION OF GIRARD COLLEGE

The Judges of the Orphans' Court of Philadelphia County inspected Girard College on Thursday, December 3, 1959, at 10:00 a.m.

Present were the following:

Judges of the Orphans' Court
Hon. Charles Klein, President Judge
Hon. Robert V. Bolger
Hon. Kendall H. Shoyer
Hon. Harold D. Saylor
Hon. Mark E. Lefever

Trustees of the Estate of Stephen Girard, Deceased
Mr. Revelle W. Brown
Mr. John A. Diemand
Mr. Walter S. Franklin
Mr. Walter B. Gibbons
Mr. Hubert J. Horan, Jr.
Dr. Louis P. Hoyer
Mr. Roland R. Randall
Mr. Harry G. Schad
Mr. Morris Wolf
Mrs. Mina F. Oliver

Absent:
Dr. Gilson C. Engel and Mr. Frederick H. Levis were out of the city,
Mr. David F. Maxwell was ill.

Also present were:
Dr. Karl R. Friedmann
Mr. William Jamison
Mr. W. H. Gillam, Jr.
Mr. Blackwell Newhall

LETTER OF JUDGE ROBERT V. BOLGER (P-55).

April 11, 1963.

Mr. John A. Diemand, Chairman
Insurance Company of North America,
1600 Arch Street,
Phila., Pa.

Dear John:

At the conference of the Judges of the Orphans' Court this morning, President Judge Klein asked me to send you the enclosed anonymous communication which came to James M. Marsh, Esq., who, you may remember, was the amicus curiae in the Girard College case. Neither Mr. Marsh nor anybody else knows the source of this communication.

The Court has asked me to request that you give the matter contained therein the attention which you think it deserves and kindly let us have your comments.

Very sincerely yours,

R. V. B.

Excerpt from Minutes of Board of Trustees of April 19, 1963 (P-25)

Excerpt from Minutes of Board of Trustees of May 17, 1963 (P-26)

EXCERPT FROM MINUTES OF BOARD OF TRUSTEES OF APRIL 19, 1963 (P-25).

President Diemand opened the meeting and referred to a letter dated April 11, 1963 to him from Judge Robert V. Bolger of the Orphans' Court of Philadelphia together with its anonymous enclosure dated March 1, 1963, and the General Manager's comments thereon (filed in the Secretary's Letters and Reports).

Mr. Diemand said that he had told the Judge that he would see that all Trustees received a copy of the letter and that he would inform the Judge of the action taken by the Board.

After thorough discussion of the matter it was moved by Mr. Fox, seconded by Mr. Gibbons and passed, that the President of the Board furnish the President of the College a copy of the letter and thereafter discuss it with him.

EXCERPT FROM MINUTES OF BOARD OF TRUSTEES OF MAY 17, 1963 (P-26).

President Diemand asked Dr. Hoyer to read a report on the results of the investigation of matters set forth in the anonymous communication which accompanied Judge Bolger's letter of April 11, 1963, after which the Board concluded that they are without foundation in fact and requested President Diemand to so inform the Court.

Debate in the Pennsylvania Senate on Act of November 19, 1959 (1959 Legislative Journal 3586 (Excerpt from P-51)

DEBATE IN THE PENNSYLVANIA SENATE ON ACT OF NOVEMBER 19, 1959, P. L. 1526 (1959 LEGISLATIVE JOURNAL 3586) (EXCERPT FROM P-51).

MR. BERGER: Mr. President, this bill is more in the nature of tidying up a bill than anything else. It is entirely consistent with the law as enunciated by the Supreme Court. The Philadelphia Bulletin, of Sunday last, I believe stated in part as follows:

> "The Orphans' Court has questioned the propriety of the Board of City Trusts still serving as guardian for boys at Girard College and for its graduates not yet 21 years old.
>
> "President Judge Charles Klein yesterday told the City Solicitor's office it is high time some definitive action was taken to clear up the situation which is a hangover from the board's former position as the city agency administering Girard College.
>
> "It is inconceivable that the city should maintain it can act as state guardian now . . . in light of the stand it took during the recent litigation over the Girard issue, Judge Klein said.
>
> "Such a position would give the city solicitor the appearance of talking out of both sides of his mouth at once, he added."

Mr. President, without reading any more of the article, this bill is simply to make consistent the guardianship of the orphan boys at Girard College and to remove from the Board of City Trusts the guardianship and place it in the hands of the trustees appointed by the Orphans' Court.

MR. WEINER: Mr. President, this is a serious matter and I do not want to inject any levity into it. However, apropos of what Senator Berger just said, it is reminiscent of a very famous story, which most of you have heard, about the

Debate in the Pennsylvania Senate on Act of November 19, 1959 (1959 Legislative Journal 3586 (Excerpt from P-51)

city lawyer who received a call from a friend of his from the country about a client being charged with a crime. As the lawyer was proceeding from his office in the city out to the country, where this case was going to be heard by a country squire, he happened to pick up what is known as advanced notes, which are books that are printed in sort of a contemporary form, like a magazine, and which give all the recent cases as they come down from the higher courts. Noting on the first page a case which fitted directly to the case in point, the one out in the country, he took this book with him and ran out to the squire. As he was listening to the case and the case came to an end, he realized that his case was on all fours in this little booklet. He said, therefore, to the squire, "Before you pronounce judgment or take any action, I want to show a very recent decision. He read this case out of this little book. Whereupon, the squire said, "I do not know how the city lawyers practice, but we do not take our law out of magazines."

I would like to say to the gentleman, Mr. President, that I would rather not take the law out of a newspaper. If President Judge Charles Klein feels this is so important, I think he should be in touch with the gentlemen here who have come from Philadelphia. I think he should write us a letter or two. I do not know of anyone who has received any communication from him. However, if he wants to practice law or tidy up his business in the Philadelphia newspapers, it is all right with me and I guess he can do that. However, I think it might be a little bit better if he contacted some of the people here.

I said originally that I, personally, feel this tidying up is not in keeping with the thinking that I have on this matter. I do not want to be part of this tidying up procedure.

Therefore, Mr. President, I desire to be recorded as voting "no" on this legislation.

* * * * * * * * *

Certificate presented to John A. Diemand by the Judges of the Orphans' Court (P-54A)

Commonwealth of Pennsylvania

In The Orphans' Court of Philadelphia County
Estate of Stephen Girard, Deceased

To all to whom these presents may come, Greeting:

Reposing special trust and confidence in the Character, Integrity and Ability of

John A. Diemand

he has been appointed

A Trustee of
The Estate of Stephen Girard

with all the rights, privileges, honors and duties thereunto appertaining.

Dated:
October 4, 1954

By the Court

Edwin O. Bolger — President Judge

Harold G. Knight

Clark C. Knight

Joseph C. Bell — Judges

Kendall N. Shoyer — Judges

(9b)

TABLE OF INSURABLE VALUES OF PROPERTIES OF THE GIRARD ESTATE (P-69).

INSURABLE VALUES

	Properties Formally Valued		Properties on Which Formal Valuation Is Not Required		
	100% Sound Insurable Value	Date of Valuation	Total Insurance Carried	Co-Insurance Clause	Imputed Insurable Value
Warehouses (Church St. & N. Front St.)			$310,550	80%	$388,188
Dwellings (Poplar St., N. 25th St., Girard Ave.)			139,500	——	174,375
23-27 S. 11th St.			139,700	80%	174,625
34-40 S. 11th St.	$6,202,270	Feb. 22, 1967			
1101-53 Chestnut St.	5,705,754	March 1, 1967			
21 S. 12th St.	4,112,396	March 1, 1967			
1100-42 Market St.	4,299,931	Feb. 22, 1967.			
S. Philadelphia (Garages and Moyamensing Ave.)			172,800	80%	216,000
Girard College	41,854,500	Feb. 20, 1967			
Schuylkill & Columbia Counties			31,000	80%	38,750
	$62,174,851				$991,938

Summary

Formal Valuations	$62,174,851
Imputed Valuations	991,938
	$63,166,789

Letter of Joseph P. Gaffney, Attorney for the Board of Directors of City Trusts (D-7)

LETTER OF JOSEPH P. GAFFNEY, ATTORNEY FOR THE BOARD OF DIRECTORS OF CITY TRUSTS (D-7).

May 31, 1950

Commonwealth of Pennsylvania
Department of Public Instruction
State Board of Private Academic Schools
Harrisburg 1, Pennsylvania.

Att: R. A. Rosenberry, Chief

Re: Girard College, Phila., Penna.

Dear Sir:

Your letter of May 15, 1950, sent to Girard College, Philadelphia, Pennsylvania, relative to the Act of June 25, 1947, P. L. 951, has been submitted to me as Solicitor for The City of Philadelphia, Trustee under the Will of Stephen Girard, Deceased, acting by and through the Board of Directors of City Trusts, for purpose of reply.

Girard College is owned, administered, operated and maintained by The City of Philadelphia, acting through a municipal department, to wit, the Board of Directors of City Trusts, created by the Act of June 30, 1869, P. L. 1276 (53 P. S. sec. 6481-6486) (see Phila. v. Fox 64 Pa. 169) which administers the Estate of Stephen Girard, deceased. Poor, white male orphans between the ages of six and ten years are admitted, given a course which includes both high school and manual training and remain until they arrive at between fourteen and eighteen years of age. Admittance of the said orphans to Girard College is governed by Clause XXI, of the Will of Stephen Girard (see pages 16 and 17 of enclosed booklet) and by the Act of Feb. 27, 1847, P. L. 178,

Letter of Joseph P. Gaffney, Attorney for the Board of Directors of City Trusts (D-7)

§1, etc., 53 P. S. 6792, et seq. (see booklet pages 35 and 36). The educational instruction offered in the College is provided for by the income of the trust estate and not for a consideration, profit or tuition.

While I entertain no doubt that the Act of June 25, 1947, P. L. 951, has no application to Girard College, in view of the definition of "private school" or "school" contained in Section 1 (a) of the Act, in order that your records may properly reflect the status of Girard College, this statement is submitted.

There is no employment of solicitors, The City of Philadelphia acting by the Board of Directors of City Trusts, performs the duties required of it by the Will of Stephen Girard and said Act of 1847, in selecting students for the College. Neither said Board nor Girard College employ any persons to solicit individuals to enroll in the College.

If you have any further questions with regards to this matter please write me.

Very truly yours,

Joseph P. Gaffney